

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DION MATHEWS,

Plaintiff,

v.

CAPTAIN LEBBEUS BROWN, et al.

Defendants.

ORDER

Case No. 16-cv-650-slc

Appeal No. 18-1659

On March 5, 2018, I granted summary judgment in favor of defendants and judgment was entered the same day. (Dkts. 151, 152.) On March 28, 2018, plaintiff Dion Mathews filed a timely motion to alter or amend that judgment pursuant to Federal Rule of Civil Procedure 59(e) (dkt. 153), which I denied on May 4, 2018. Now plaintiff has filed a notice of appeal. (Dkt. 154.)

Plaintiff moves for leave to proceed *in forma pauperis* on appeal. (Dkts. 161, 163.) This case is governed by the Prison Litigation Reform Act (PLRA), which requires indigent inmates to pay by installment the entire filing fee for civil actions and appeals. 28 U.S.C. § 1915(b). From the financial information that plaintiff provides (dkt. 164), I find that he lacks sufficient means to prepay the entire \$505 appellate docketing fee. It does not appear that plaintiff has filed his appeal in bad faith or that pauper status is otherwise precluded by Federal Rule of Appellate Procedure 24(a), so I will grant plaintiff's motion for leave to proceed *in forma pauperis*.

Although plaintiff may proceed *in forma pauperis*, the PLRA requires indigent inmates to make an initial partial payment pursuant 28 U.S.C. § 1915(b)(1). Based on his inmate trust fund account statement, the court has calculated that plaintiff must make an initial partial filing fee payment of \$16.12 for his appeal, which is due no later than June 18, 2018. Plaintiff must

pay the remainder of the \$505 appellate docketing fee in monthly installments pursuant to 28 U.S.C. § 1915(b)(2).

Finally, plaintiff has also filed a motion to stay proceedings and appoint counsel. (Dkt. 162.) However, his motion is captioned to the Seventh Circuit Court of Appeals, so it appears that he intended to file it with that court. Accordingly I am denying that motion without prejudice. If plaintiff wishes to stay the appeal and be appointed counsel, he will have to file his motion directly with the Court of Appeals for the Seventh Circuit.

ORDER

IT IS ORDERED that:

1. Plaintiff Dion Mathews's request for leave to proceed *in forma pauperis* on appeal, (dkt. 161, 163) is GRANTED. The court certifies that plaintiff's appeal is not taken in bad faith for purposes of Fed. R. App. P. 24(a)(3).
2. No later than June 18, 2018, plaintiff shall submit a check or money order made payable to the clerk of court in the amount of \$16.12 as an initial partial payment of the docketing fee for this appeal. If plaintiff does not have the money to make the initial partial appeal payment from his regular account, he may arrange with prison authorities to pay some or all of the assessment from his release account.
3. If plaintiff fails to make his initial partial fee payment as directed by June 18, 2018, the clerk's office will notify the court of appeals so that it may take whatever action it deems appropriate with respect to this appeal.
4. Plaintiff's motion for a stay and to appoint counsel (dkt. 162) is DENIED without prejudice.

Entered this 30th day of May, 2018.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge